

SENATE BILL NO. 321

INTRODUCED BY E. BOLDMAN, A. OLSEN, M. DUNWELL, T. MANZELLA, S. VINTON, J. GROSS, K. SULLIVAN, J. CARLSON, K. ZOLNIKOV, A. BUCKLEY, S. O'BRIEN, S. VANCE, L. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STALKING LAWS TO INCLUDE THE USE OF GLOBAL POSITIONING DEVICES AND SIMILAR TECHNOLOGICAL MEANS; PROVIDING A DEFINITION; AND AMENDING SECTION 45-5-220, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-5-220, MCA, is amended to read:

"45-5-220. Stalking -- exemption -- penalty. (1) A person commits the offense of stalking if the person purposely or knowingly engages in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person to:

- (a) fear for the person's own safety or the safety of a third person; or
(b) suffer other substantial emotional distress.

(2) For the purposes of this section, the following definitions apply:

(a) "Course of conduct" means two or more acts, including but not limited to acts in which the offender directly or indirectly, by any action, method, communication, or physical or electronic devices or means, follows, monitors, observes, surveils, threatens, harasses, or intimidates a person or interferes with a person's property.

(b) "Monitors" includes the use of any electronic, digital, or global positioning device or similar technological means.

(b)(c) "Reasonable person" means a reasonable person under similar circumstances as the victim. This is an objective standard.

(c)(d) "Substantial emotional distress" means significant mental suffering or distress that may but does not necessarily require medical or other professional treatment or counseling.

(3) This section does not apply to a constitutionally protected activity.

1 (4) (a) Except as provided in subsection (4)(b), for the first offense, a person convicted of stalking
2 shall be imprisoned in the county jail for a term not to exceed 1 year or fined an amount not to exceed \$1,000,
3 or both.

4 (b) For a second or subsequent offense within 20 years or for a first offense when the offender
5 violated any order of protection, when the offender used force or a weapon or threatened to use force or a
6 weapon, or when the victim is a minor and the offender is at least 5 years older than the victim, the offender
7 shall be imprisoned in the state prison for a term not to exceed 5 years or fined an amount not to exceed
8 \$10,000, or both.

9 (c) A person convicted of stalking may be sentenced to pay all medical, counseling, and other
10 costs incurred by or on behalf of the victim as a result of the offense.

11 (5) Upon presentation of credible evidence of violation of this section, an order may be granted, as
12 set forth in Title 40, chapter 15, restraining a person from engaging in the activity described in subsection (1).

13 (6) For the purpose of determining the number of convictions under this section, "conviction"
14 means:

15 (a) a conviction, as defined in 45-2-101, in this state;

16 (b) a conviction for a violation of a statute similar to this section in another state; or

17 (c) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this
18 state or another state for a violation of a statute similar to this section, which forfeiture has not been vacated.

19 (7) Attempts by the accused person to contact or follow the stalked person after the accused
20 person has been given actual notice that the stalked person does not want to be contacted or followed
21 constitutes prima facie evidence that the accused person purposely or knowingly followed, harassed,
22 threatened, or intimidated the stalked person."

23 - END -